

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	CASE NO. 5:17CR00195
	:	
Plaintiff,	:	
	:	JUDGE BENITA Y. PEARSON
-vs-	:	
	:	
AUSTIN BOLLINGER,	:	<u>DEFENDANT'S UNOPPOSED</u>
	:	<u>MOTION TO CONTINUE FINAL</u>
Defendant.	:	<u>PRETRIAL, TRIAL DATE AND ALL</u>
	:	<u>PRETRIAL AND TRIAL RELATED</u>
	:	<u>DEADLINES</u>

The Defendant, Austin Bollinger, through counsel, respectfully moves this Honorable Court for a continuance of the final pretrial, trial date and for a commensurate extension of all dates and deadlines in the pretrial order pursuant to 18 U.S.C. § 3161(h)(7)(A). Assistant United States Attorney David M. Toepfer has no objection to this motion.

Mr. Bollinger is charged with one count of violation Title 18 § 641 Theft of Government Property and one count of violation Title 18 § 2 and 641 Receiving Stolen Government Property.

The reason for this request is that discovery is ongoing. Counsel both for Mr. Bollinger and the United States are working diligently to locate and produce certain material documents which are relevant and necessary to Mr. Bollinger's defense. Additional time is needed in order to locate, obtain, and to review discovery with Mr. Bollinger; complete investigations; and pursue plea negotiations which could result in a resolution in this matter without a trial. Furthermore,

the additional time is needed to effectively prepare any pretrial motions, consider a plea offer or prepare for a possible trial. The request for this continuance is made in the interest of justice and not for needless delay. The interests of justice far outweigh the public's interest in a speedy trial and would best be served by granting this motion. See, 18 U.S.C. § 3161(h)(7)(A).

Pursuant to Section 3161(h) of the Speedy Trial Act, certain periods of delay shall be excluded in computing the time within which the trial of any offense must commence. Specifically, Title 18, Section 3161(h)(7)(A) provides for the exclusion of delay which is brought about by a continuance granted by a judge when such continuance will serve the interests of justice.

To that end, Title 18, Section 3161(h)(7)(A) specifically provides:

Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

In determining whether a continuance is justified in the case *sub judice*, this Court must make the necessary findings that the interest of justice will be served by so permitting such a continuance of the trial date. Title 18, Section 3161(h)(7)(B) provides that a judge shall consider certain factors in making such a determination concerning the interests of justice; and that the reasons for such determination shall be set forth on the record.

Title 18, Section 3161(h)(7)(B)(ii) provides that among the factors to be considered by the court are:

Whether the case is so unusual or so complex, due to the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

Having full and complete knowledge of the foregoing factors and the specific rights and requirements provided and set forth under Section 3161, Defendant hereby moves this Honorable Court for a continuance for the trial date beyond the seventy (70) day limitation set forth in Title 18, Section 3161 *et seq.*

Defense counsel and the government have consulted and are available for final pretrial on August 17th, August 29th or August 31st, 2017, and trial the weeks of September 12th, September 18th, or September 25th, 2017.

Wherefore, based on the foregoing, the Mr. Bollinger respectfully requests an Order from this Court continuing the final pretrial, trial date and all pretrial and trial related deadlines.

Respectfully submitted,

s/STEPHEN C. NEWMAN
STEPHEN C. NEWMAN
Federal Public Defender
Ohio Bar: 0051928
1660 West Second Street, Suite 750
Cleveland, Ohio 44113
(216) 522-4856 (o); (216) 522-4321 (f)
(stephen_newman@fd.org)

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2017, a copy of the foregoing Motion was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

s/STEPHEN C. NEWMAN
STEPHEN C. NEWMAN
Federal Public Defender